In the High Court of Uttaranchal at Nainital.

Criminal Revision No. 52/2004

Manoj Tyagi S/o Late Sashi Singh Tyagi
R/o Mohalla Vidur Nagar
Vidur Kuti Road,
Thana Kotwali Sahar,
District Bijnaur, U.P. ……. Revisionist.

Vs.

1. State of Uttaranchal
2. Smt. Sudha Tyagi w/o Manoj Tyagi
   D/o Chauhan Singh Tyagi
   R/o 5, Tilak Road, Thana Kotwali,
   Dehradun ……..Respondents.

Hon'ble Irshad Hussain, J.

Heard Sri B.P.Nautiyal learned counsel for the revisionist and Sri H.C.Pandey learned A.G.A. and perused the record.

2. This criminal revision under section 397/401 of the Code of Criminal Procedure read with section 19(4) of the Family Courts Act 1986 has been preferred against the order dated 13.2.2004.

3. By the impugned order the learned Principal Judge, Family Court, fixed a date for disposal of the application for setting aside the exparte judgment and order dated 1.11.2003 and imposed a condition that the petitioner-husband shall meanwhile pay half of the maintenance allowance awarded. The recovery of the remaining half of the maintenance allowance was stayed. The learned counsel for the revisionist submitted that the wife-respondent no.2 had merely claimed Rs. 5000/- per month as maintenance but by the exparte judgment and order dated 1.11.2003 maintenance allowance at the rate of Rs. 6000/- was awarded.

4. Considering this aspect the impugned order is modified to the extent that till the disposal of the application for setting aside the exparte judgment and order the revisionist-husband shall pay

Rs. 2500/- per month as interim maintenance to the respondent no.2-wife from the date of the presentation of the application. The learned Principal Judge, Family Court shall expedite the disposal of the application for setting aside the exparte judgment and order, preferably, within a period of 15 days from the date of receipt of the copy of this order.

(Irshad Hussain, J.)

Dated: 04-05-2004

ISB